



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

Public Hearing Date: March 15, 2011
Land Use Action Date: May 17, 2011
Board of Aldermen Action Date: June 6, 2011
90-Day Expiration Date: June 7, 2011

DATE: March 11, 2011

TO: Board of Aldermen

FROM: Candace Havens, Interim Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ET
Derek Valentine, Senior Planner

SUBJECT: **Petition #48-11, DOUGLAS GENTILE/TEEGEE LLC** for a SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an existing garage repair shop at **441 WATERTOWN STREET**, Ward 1, Nonantum on land known as Sec 14, Blk 8, Lot 7, containing approx 10,543 sq ft of land in a district zoned BUSINESS 2 Ref: Sec 30-24, 30-23, AND 30-11(g) of the City of Newton Rev Zoning Ord, 2007.

CC: Mayor Setti D. Warren

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

For decades before 2008, there was an automotive use on this property, which predated the time for which a special permit was required for this use. Although a special permit was never granted, the Inspectional Services Department's records indicate that a building permit was issued for the by-right construction of an auto repair facility in 1929. Subsequent building permits expanded the capacity of this facility, including those issued in 1938, 1951, 1975 and 1989. If the automotive use had been uninterrupted since its inception, the petitioner would not need to seek a special permit. However between 2005 and 2008, a number of furniture stores occupied the site. Since this retail use is allowed by right in the Business 2 zone, the property lost the legally nonconforming status for an automobile repair use. The petitioner has been operating a repair shop since receiving a business certificate from the City of Newton in October of 2009 with the understanding that the use was legal. Unfortunately, this certificate was issued in error and he now seeks to legalize the repair shop. Since the previous use (retail) had the same parking requirements as the proposed use (a service establishment), no additional parking is required. The petitioner has submitted a site plan showing that the existing parking area can accommodate properly dimensioned stalls; however, the stalls have not been striped on the pavement. The site plan is dated 2005, but there have been no changes to the site or the exterior of the building since the plan was prepared. Given the history of auto repair on this property and the strong presence of other repair shops in the immediate neighborhood, the Planning Department believes that this is an appropriate use for the site.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When considering this request, the Board should consider whether the following apply:

- Since the site has been used as a repair shop almost continuously since at least 1960, legalizing said use would not be substantially more detrimental to the neighborhood.
- The immediate neighborhood has a number of similar uses and no incompatible uses.
- The legalization of an automotive repair shop use in this location (Business 2 zone) is consistent with the *2007 Newton Comprehensive Plan*, which supports strengthening viable businesses without adverse impact on the surrounding neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Watertown Street in Nonantum. Both sides of Watertown Street in this vicinity fall within the Business 2 zone. The subject property is surrounded by a variety of non-residential uses, including several auto repair facilities. Clay Auto Body has two facilities; one to the west of this site and another one directly across the street from the petitioner's property. Also across Watertown

Street from the site is Precision Auto Services. To the east of the site is an office building. The nearest residential use is a two-family house located over 120' from the subject site. Commercial uses dominate the area and the proposed use fits well in the neighborhood.

B. Site

The site is very level, and almost entirely covered with bituminous concrete. There is very little landscaping or opportunity for landscaping with the exception of three street trees, which appear to be in good condition. A drainage easement in favor of the City of Newton is shown on the plans encompassing the first 15' of the property off of Watertown Street and continuing along the eastern property line. The Engineering Department has confirmed that this drainage easement was never recorded and has since expired.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property is currently being used as an auto repair facility and this use will continue if this petition is approved.

B. Building and Site Design

The building is a single-story, brick and concrete block structure. The building has a large overhead door on the west end of the front façade and a series of large windows across a majority of this façade. A small office for the repair shop is located in the southeast corner of the structure. The building is positioned towards the rear of the lot with parking provided on the front and sides of the building. No changes are proposed to the site layout or building at this time.

C. Parking and Circulation

Eleven properly dimensioned parking stalls are shown on the plan, including one employee parking space in the rear of the building. Since this parking plan was approved for the previous retail use, and the proposed automotive repair use has the same parking requirements under the Newton Zoning Ordinance, no additional parking is required. A bituminous ramp for the property at 451 Watertown Street extends over the property line onto the petitioner's site. This does not appear to affect the circulation or parking on the site. **The Planning Department recommends striping of the parking lot to denote properly dimensioned spaces, as shown on the site plan of record.**

D. Landscape Screening:

Three street trees are located along the Watertown Street frontage. Since the lot is entirely covered with impervious surfacing, there is little opportunity for additional landscaping, nor is it necessary because the property is not adjacent to any incompatible uses.

IV. TECHNICAL REVIEW

- A. Technical Considerations (Section 30-11(g)). The Zoning Review Memorandum, dated December 1, 2010 (**"ATTACHMENT A"**), provides an analysis of the proposal with regard to zoning. The petitioners must seek a special permit in order to operate an automotive repair shop in the Business 2 zone.
- B. Engineering Department Review. Since no changes are proposed to the site, Engineering Department review is not required.
- C. Fire Department Review. Since the circulation pattern of the property is not proposed to change, no further review for fire access is necessary. The Fire Department will be reviewing the plans at the time of issuance of a certificate of occupancy for code compliance, which may include the addition of sprinklers or other fire suppression methods. **The Planning Department recommends a condition requiring that the petitioner comply with all applicable safety codes in accordance with recommendations by the Building Department and the Fire Department.**

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum (**"ATTACHMENT A"**) the petitioner is seeking approval through or relief from:

- Section 30-11(g), to allow an auto repair shop in the Business 2 zone.

VI. PETITIONERS' RESPONSIBILITIES

The petition is complete at this time.

ATTACHMENTS

ATTACHMENT A: ZONING REVIEW MEMO DATED DECEMBER 1, 2010
ATTACHMENT B: LAND USE VICINITY MAP
ATTACHMENT C: ZONING VICINITY MAP
ATTACHMENT D: DRAFT BOARD ORDER #47-11

Zoning Review Memorandum

Date: December 1, 2010

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: James P. Campbell, Property Owner
Candace Havens, Interim Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to permit an automotive repair use in BU2 zone

**Applicants: Douglas Gentile, Business Owner; and
James P. Campbell, Property Owner**

Site: 441 Watertown Street

SBL: 14008 0007

Zoning: BU2

Lot Area: 10,543 sq. ft.

Current use: Garage repair shop

Proposed use: Garage repair shop

Background:

The property and building at 441 Watertown Street have been used for automotive uses for decades without special permit. These businesses were likely legally nonconforming because the original automotive use was established before the Newton Zoning Ordinance required a special permit for such a use. Until 2005 the use continued without interruption. Beginning in 2005 and lasting until 2008 a succession of furniture stores occupied the site. This by-right retail use broke the continuity of the grandfathered automotive use. In 2010, a new automotive garage repair shop opened at the site, without receiving zoning approval. The property is currently under zoning enforcement for a use violation; this application seeks to remedy that violation through a special permit from the Board of Aldermen.

The following review is based on plans and materials submitted to date as noted below.

Plans and materials reviewed:

- Site Plan, VTP Associates, James Abley, Surveyor, dated 9/29/05

Administrative determinations:

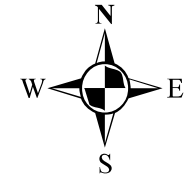
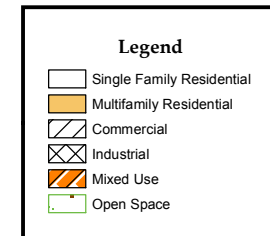
1. The proposed use, a garage repair shop, is allowed in the BU2 zone by special permit. To legalize the existing garage repair shop, the applicant must obtain a Special Permit from the Board of Aldermen under §30-11(g).

2. The previous use, retail establishment, and the proposed garage repair shop use, a service establishment, have the same parking requirement. No additional parking is required.
3. See “Zoning Relief Summary” below:

<i>Zoning Relief Summary</i>		
<i>Ordinance</i>	<i>Use</i>	<i>Action Required</i>
§30-11(g)	Permit garage repair shop in BU2 zone	S.P. per §30-24

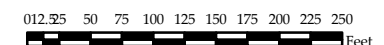
441 Watertown St. Vicinity Land Use

*City of Newton,
Massachusetts*



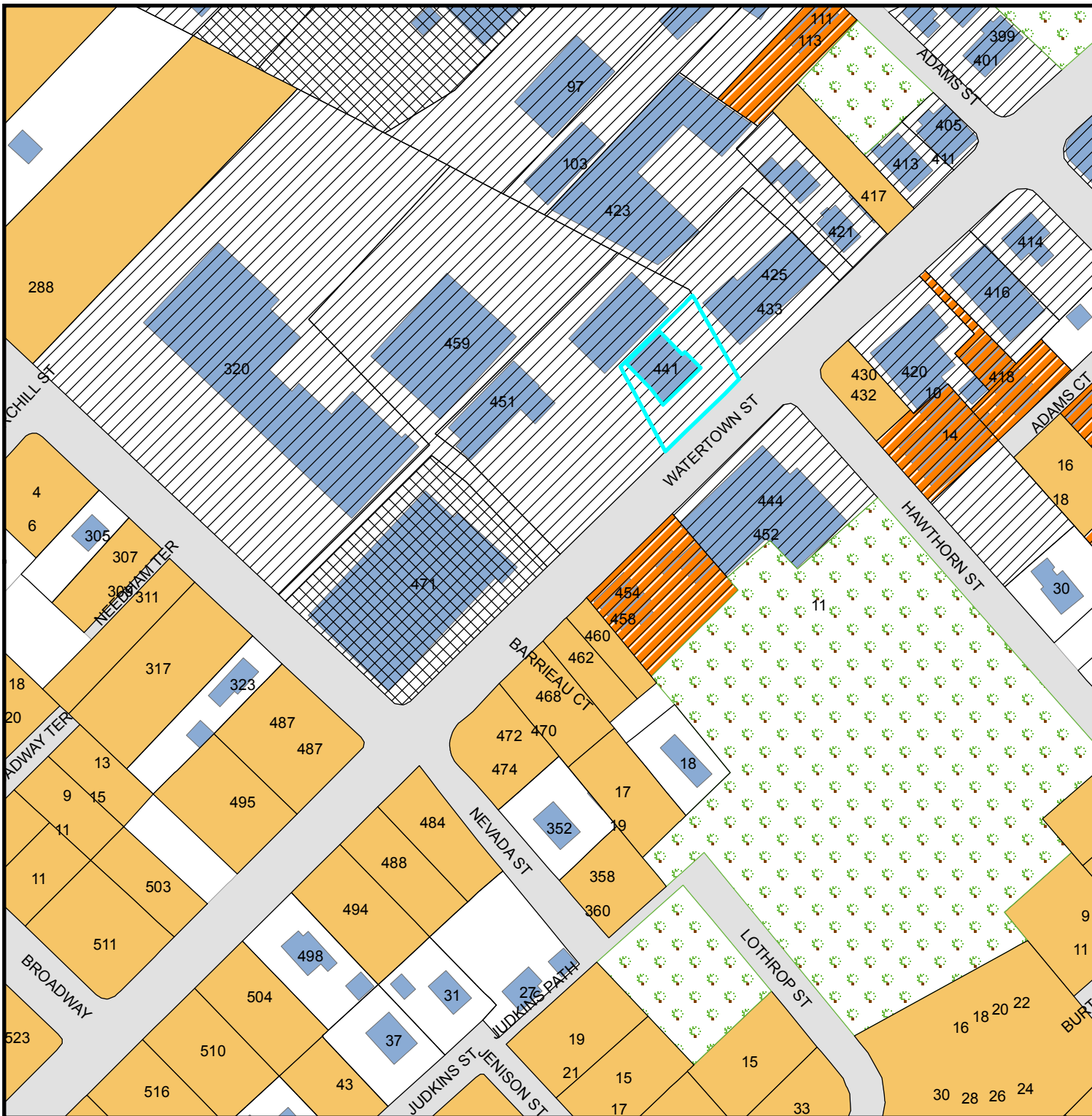
The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



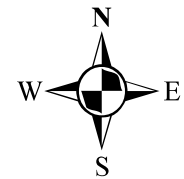
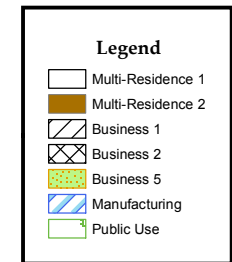
MAP DATE: March 10, 2011

ATTACHMENT B



441 Watertown St. Vicinity Zoning

*City of Newton,
Massachusetts*



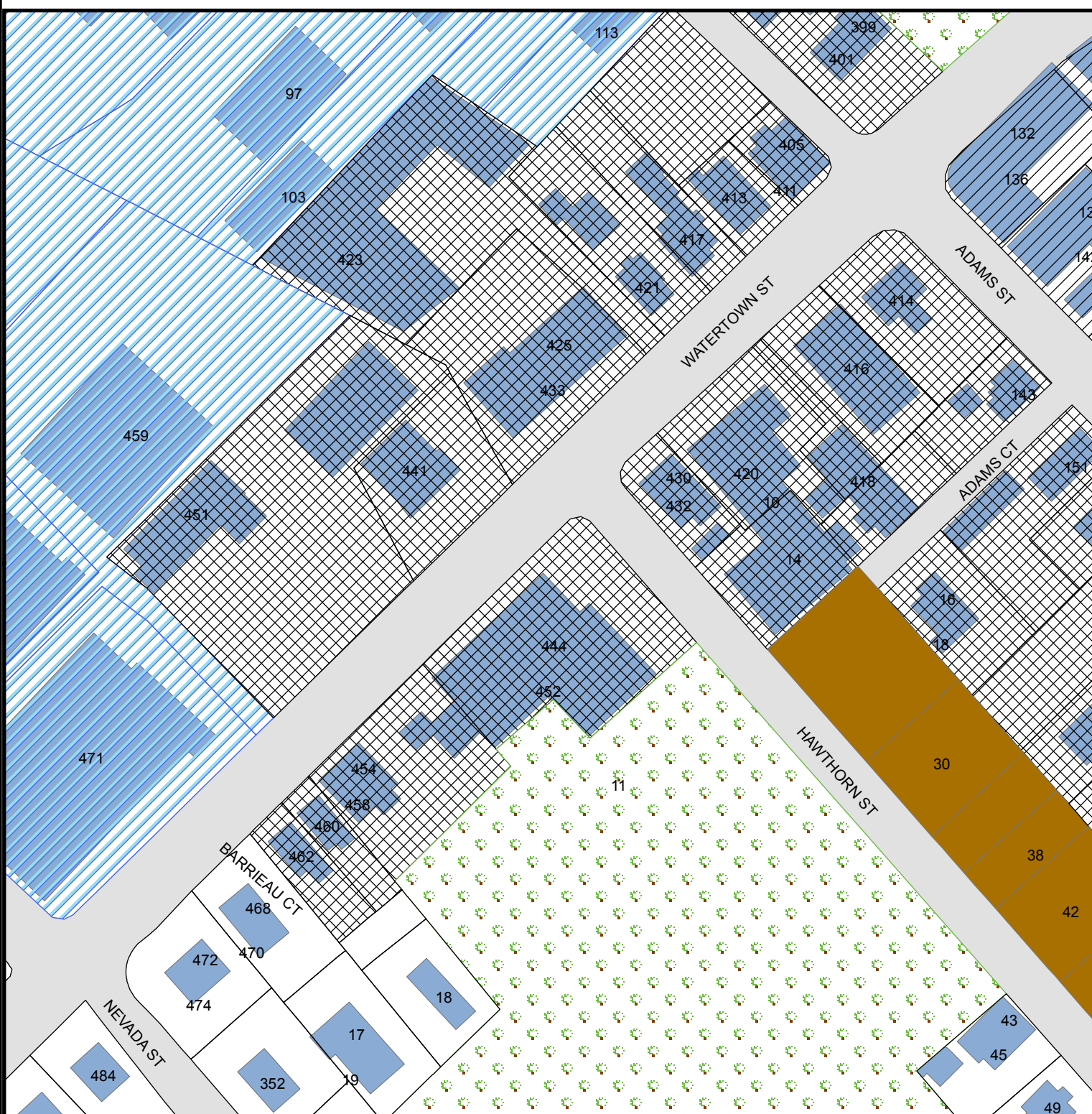
The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.525 50 75 100
Feet

MAP DATE: March 11, 2011

ATTACHMENT C



ATTACHMENT D

#48-11

CITY OF NEWTON

IN BOARD OF ALDERMEN

March 15, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, hereby grants the following SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an existing garage repair shop in a Business 2 zone in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefore, through its Chairman, Alderman Ted Hess-Mahan:

1. Since the site has been used as a repair shop almost continuously since at least 1960, legalizing said use will not be substantially more detrimental to the neighborhood.
2. The immediate neighborhood has a number of similar uses and no incompatible residential uses.
3. The legalization of an automotive repair shop use in this location (Business 2 zone) is consistent with the *2007 Newton Comprehensive Plan*, which supports strengthening viable businesses without adverse impact on the surrounding neighborhood.

PETITION NUMBER: #48-11

PETITIONERS: Douglas Gentile/TEEGEE LLC

LOCATION: 441 Watertown Street, Ward 1, Nonantum, Section 14, Block 8, Lot 7, containing approximately 10,543 sq. ft. of land in Business 2 zone.

OWNERS: TEEGEE LLC

ADDRESS OF OWNERS: 26 Washington Street
Wellesley Hills, MA

TO BE USED FOR: An automotive repair shop

CONSTRUCTION: Concrete block and brick

EXPLANATORY NOTE: The following special permits are granted: Section 30-11(g), to allow an auto repair shop in the Business 2 zone

Approved, subject to the following conditions:

1. All improvements shall be located and constructed consistent with the following plans as noted:
 - “Site Plan Showing Proposed Conditions at #441 Watertown Street”, Dated September 29, 2005, signed and stamped by James J. Abely, Professional Land Surveyor.
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. Recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this SPECIAL PERMIT and SITE PLAN APPROVAL.
 - b. Submitted a certified copy of such recorded notices to the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or registered engineer certifying compliance with Condition #1.
 - b. Striped the parking lot to denote 11 properly-dimensioned spaces, as indicated on the plan referenced in Condition #1.
 - c. Complied with all applicable fire suppression and safety codes, as required and inspected by the Fire Department and Inspectional Services Department.
 - d. Submitted to the Departments of Planning and Development and Inspectional Services final as-built floor plans in digital format.